

**1. General**

- 1.1 Registering in, use of and access to the Website and Products contained therein is subject to the Terms and by registering, using or accessing the Website and/or Products, Users agrees to be bound by them.
- 1.2 The Author reserves the right to unilaterally modify the Terms at any time without notice to any User.
- 1.3 The Terms in place at the time of a use of the Website will apply to that use. If Users do not accept the Terms, Users should not continue to use the Website or access the Products.
- 1.4 The most current version of the Terms will be published on the Website from time to time. Copies of superseded versions of the Terms may be obtained from the Author by request.

**2. Registration****2.1 Application**

Application to register to the Website shall be made in such manner as the Author shall from time to time determine.

**2.2 Criteria for Acceptance of Registration**

- (a) The Author reserves the right to determine the criteria for accepting or rejecting an application to register to the Website.
- (b) The Author may in its absolute discretion either accept or reject an application to register to the Website and is not obliged to provide reasons for its decision.
- (c) The Author will review all membership registrations at its discretion.

**2.3 De-registration**

The Author may de-register a membership to the Website without notice if:

- (a) The User defaults in observance of the Terms;
- (b) the Author reasonably believes that there is a real risk of loss or damage to any entity if the User remains registered;
- (c) the User infringes upon any Intellectual Property Rights; or
- (d) if there are other reasonable grounds to do so in the sole discretion of the Author.

**3. Privacy**

- 3.1 The Author collects personally identifying information during the registration process, which may include User names, current and previous addresses, phone numbers, email address, organisation and position details, preferences for using the Website and computer and connection information.
- 3.2 Personal identifying information is collected among other things to enable the Author to provide Users with the Website and the Products. If a User chooses not to provide personal identifying information, the Author may not be able to confirm the User's funding status to complete or continue the User's registration to the Website.
- 3.3 The Author may collect personal identifying information directly from Users or when Users use or submit information to the Author through the Website (e.g. email or cookies) and when legally required to do so.
- 3.4 User personal identifying information may be used to verify User identity, provide Website services, administer and manage the Website and Products (including charging, billing and collecting debts) and to conduct appropriate checks for credit-worthiness and for fraud.
- 3.5 Cookies are pieces of information that websites transfer to an individual's hard drive for record-keeping purposes while at the site. Usually cookies make using the Website easier by saving passwords and preferences. In some cases cookies may store personal information about Users. The same privacy policy is applied by the Author whether the information is collected via cookies or other sources. Internet browsers are usually set to accept cookies, however Users can adjust their internet browser to disable cookies in which case Users may not be able to access certain areas of the

Website.

- 3.6 Users have a right to access their personal identifying information, subject to some exceptions allowed by law. Users wishing to access their personal identifying information should make a request in writing to the Author. The Author reserves the right to charge a fee for searching for and providing access to personal information.

**4. Licences****4.1 User Personal Identifying Information**

Each User who applies to register to the Website grants the Author all the necessary licences, rights, consents and permissions to use all personal identifying information relating to the User to ascertain and continually confirm the User's funding member of The Rail Industry Safety and Standards Board (RISSB) status.

**4.2 Author Content**

- (a) The Author hereby authorises Users to display the Website on their computers and download and print individual copies of the Products and Author Content for the Users' own non-commercial use.
- (b) Except as expressly authorised under these Terms and as permitted by law, Users must not use, copy, modify, transmit, store, re-publish or distribute any Products or Author Content without obtaining the prior consent of the Author.

**5. Intellectual Property Rights and Confidentiality**

- 5.1 All Intellectual Property Rights attached to the Website, Products and Author Content are owned by the Author.
- 5.2 Information or materials procured by the Author from a third party and published on the Website as a Product, may be the subject of copyright owned by that third party.
- 5.3 There is no assignment of Intellectual Property Rights of the Author pursuant to the Terms and nothing in these Terms affects the Moral Rights in any information supplied pursuant to these Terms.
- 5.4 All personal information provided by the User in registering to the Website will be considered non-confidential

**6. Acknowledgements**

All Users acknowledge that:

- (a) the content of the Website is provided for information purposes only;
- (b) information contained in the Website has been accepted and collected by the Author in good faith;
- (c) the Website is owned by the Author and is made available to Users who are funding members of The Rail Industry Safety and Standards Board (RISSB)
- (d) Users who subsequently fail to continue to be funding members of The Rail Industry Safety and Standards Board (RISSB) and fail to notify the Author, will be liable to compensate the Author for use of the Products for the period of time which they remain registered members of the Website without being funding members of The Rail Industry Safety and Standards Board (RISSB).

**7. Warranties****7.1 Accuracy of Content**

The Author makes no warranty regarding the accuracy, completeness and currency of any Products, Author Content and/or all other Website content.

**7.2 Security**

- (a) The Author does not warrant that the Website, Author Content or any of its Products or contents will be available on a secure, virus free, continuous or uninterrupted base.
- (b) The Author is not responsible for any event arising from unauthorised access to, or misuse of, information submitted on the Website.

## 8. Dispute Resolution

8.1 Subject to clause 8.2, if a dispute arises out of or relates to these Terms (including any dispute as to breach or termination or any claim) no Party may commence any proceedings relating to the dispute unless that Party has complied with this term:

- (a) a Party claiming that a dispute (the Dispute) has arisen under or in relation to these Terms must give notice (the Notice) to the other Party to these Terms specifying the nature of the Dispute;
- (b) on receipt of the Notice by the Party, the parties must endeavour in good faith to resolve the Dispute expeditiously using dispute resolution techniques such as negotiation, mediation, conciliation, arbitration and expert evaluation or determination or similar techniques agreed by them;
- (c) if the parties do not resolve the Dispute within seven (7) days of receipt of the Notice by the Party (or as further period as agreed in writing by them) or do not agree within that time as to:
  - (i) the dispute resolution technique (e.g. conciliation) and procedures to be adopted to resolve the Dispute; and/or
  - (ii) the timetable for all steps in those procedures; and/or
  - (iii) the selection and compensation of the independent person required for the selected technique;

any Party may request the President of the Australian Capital Territory Law Society or his or her nominee, to refer the Dispute to a Mediator

for mediation in accordance with the Mediation Rules of the Australian Capital Territory Law Society.

8.2 Clause 8.1 does not apply in relation to a dispute wherein a Party to these Terms:

- (a) seeks urgent relief against another Party;
- (b) seeks recovery of a debt or makes a liquidated demand in connection with these Terms against another Party of less than or equal to \$10,000.00, excluding costs and interest; or
- (c) if the parties agree in writing that the provision is not to apply to a given dispute.

## 9. Miscellaneous

### 9.1 Consents and Approvals

- (a) Subject to any law to the contrary, where the doing or execution of any act, matter or thing is dependent on the consent or approval of a party, that consent or approval may be given or withheld in the absolute discretion of that Party, unless the Terms expressly provide otherwise.
- (b) In these Terms a reference to a consent or approval of a Party means the prior written consent or approval of that Party.

### 9.2 Notices

A Notice of Dispute (subclause 8.1) must be made in writing. Otherwise, any notice given by either Party pursuant to these Terms may be given orally or in writing.

### 9.3 No Waiver

- (a) Any delay or failure to enforce any provision of these Terms will not be deemed to be a waiver.
- (b) There is no implied waiver by either Party in respect of any provision of these Terms and any waiver granted by either Party shall be without prejudice to any other Rights.
- (c) Any waiver must be in writing and does not cover subsequent breaches of the same or a different kind.
- (d) A waiver by a Party of its Rights under these Terms is only effective in relation to the particular obligation or breach in respect of which it is given.

## 9.4 Joint and Several Liability

- (a) Any obligation imposed by these terms on more than one entity and any covenant given in these Terms by more than one entity binds those entities jointly and each of them severally and may be enforced against anyone or any two or more of them.
- (b) Where a party is comprised of more than one entity, the obligations and covenants of that Party bind any two or more of those entities jointly and each of them severally.

## 9.5 Exclusion of Implied Terms

To the maximum extent permitted by law, all conditions and warranties which would but for this clause be implied into the Terms by operation of common law or statute, including in particular but not being limited to any fair trading, trade practices and consumer protection legislation from time to time in force, are expressly excluded.

## 9.6 Limitation of Liability

- (a) To the maximum extent permitted by law, the Author shall not be liable to a User for loss or damage of any kind (including in particular but not being limited to liability for loss, injury, claim liability, damage or costs (including legal costs)) made against or incurred or suffered by any User directly or indirectly (including without limitation lost costs, profits and data) as a result or arising out of:
  - (i) the exercise by the Author of any right vested in the Author pursuant to the Terms;
  - (ii) any error or omission in any Product, Author Content or any other content published by the Author on the Website;
  - (iii) any use or misuse by a User of any material or information published on the Website;
  - (iv) any inability of a User to use or obtain access to the Website;
  - (v) the Author's negligence in connection with the performance of the Author's obligations under the Terms or any condition or warranty implied into the Terms which cannot be lawfully modified or excluded; and
  - (vi) the Author's breach of any express provision of the Terms or any condition or warranty implied into the Terms which cannot be lawfully modified or excluded.
- (b) To the extent that a liability of the Author to a User for loss or damage of any kind cannot be or is not excluded from the Terms but can be limited, the Author's liability is so limited to re- providing the relevant services again.
- (c) Any liability of the Author to a User for loss or damage of any kind is to be reduced to the extent that the User caused or contributed to that loss or damage.

## 9.7 Governing Law

These Terms shall be governed by and construed in accordance with the laws of the Australian Capital Territory and the Commonwealth of Australia and the parties submit themselves to the exclusive jurisdiction of the Courts of those jurisdictions and those that have jurisdiction to hear any appeals from them.

## 9.8 Severability

If any of the provisions of the Terms shall be unlawful, void or unenforceable for any reason, the provision shall be deemed severable to the extent that it is lawful, void or unenforceable, but shall not affect the validity or enforceability of the remaining provisions.

## 10. Definitions and Interpretation

- (a) **Author** means the owner of the Website from time to time, currently known as the Rail Industry Safety and Standards Board and includes those entity's related bodies corporate, employees, officers, agents, subcontractors, successors, liquidators, administrators,

receivers and assigns;

- (b) **Author Content** means any text, images and other content that is made available on the Website;
- (c) **Intellectual Property Rights** means all present and future rights conferred by statute, common law or equity in or in relation to any copyright, trademarks, designs, patents, circuit layouts, business and domain names, inventions, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields;
- (d) **Moral Rights** means:
  - (i) a right of attribution of authorship; or
  - (ii) a right not to have authorship falsely attributed; or
  - (iii) a right of integrity of authorship; or
  - (iv) a right of a similar nature;which is conferred by statute, and which exists or comes to exist anywhere in the world in a deliverable form;
- (e) **Obligations** include liabilities and legal, equitable, contractual, statutory and other duties and obligations;
- (f) **Party** means a party to these Terms and includes the Author, the Service Provider and Users;
- (g) **Products** means the products, documents, publications, manuals, guidelines, standards and other associated documents as published on the Website;
- (h) **Rights** includes authority, benefit, power, privilege, remedy, right and cause of action;
- (i) **Terms** means the provisions of this document as varied and in force from time to time;
- (j) **User** means any person or entity (including a Service Provider) who uses, accesses or views the Website or the Products; and
- (k) **Website** means all information and material located at the Uniform Resource Locator (URL) [www.rissb.com.au](http://www.rissb.com.au).